

Filed by

Fred E. McKelvey  
Senior Administrative Patent Judge  
Mail Stop Interference  
P.O. Box 1450  
Alexandria Va 22313-1450  
Tel: 571-272-9797  
Fax: 571-273-0042

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  
(Senior Administrative Patent Judge McKelvey)

ROBERT H. GRUBBS and MATTHIAS SCHOLL,

Junior Party  
(Application 09/576,370),

v.

STEVEN P. NOLAN and JINKUN HUANG,

Senior Party  
(Application 09/392,869).

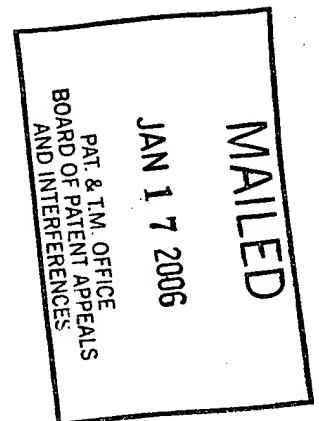
Patent Interference No. 105,373  
Technology Center 1600

**REDECLARATION - Bd.R. 203(c)**

**A. Introduction**

1. In the ORDER SETTING TIMES FOR TAKING ACTION--  
MOTIONS PHASE (Paper 29, Part B(5)), it was indicated that a  
formal order redeclaring the interference would be entered during  
the first week in January of 2006.

2. This REDECLARATION is intended to be that formal  
order.



**B. Order**

Substitution of Count 2 for Count 1

1. The parties have agreed that Count 2 should be substituted for Count 1 (Paper 1, pages 6-7); the board concurs (Paper 29, page 2, ¶ B(1)).

2. Count 2, which is set out in Appendix 1 of this REDECLARATION is substituted for Count 1 (Paper 1, page 6-7).

Claim correspondence

3. In a MEMORANDUM OPINION and ORDER -- Bd.R. 104(a) (Paper 3), the board (1) invited Nolan to correct Fig. 4 of its drawings and (2) required Nolan to submit a new set of claims.

4. Because the parties have agreed on a count which the board finds suitable, there is no need for Nolan to file an amendment (Paper 29, pages 2-3, ¶¶ 6-9).

5. Accordingly, any amendments of the claims submitted by the parties need not be entered.

6. Instead, the interference can be resolved on the basis of the Grubbs and Nolan claims presently in the respective applications involved in the interference.

7. The claims of the parties are:

Grubbs: 1-64

Nolan: 9, 11-14, 17-21, 23-40, 43-65, 71-73 and  
77-111

8. The claims of the parties which correspond to  
Count 2 are:

Grubbs: 1-39 and 41-64

Nolan: 9, 11-14, 17-21, 23-40, 45-46, 51-62,  
71, 73, 77-78, 89-92 and 107-109

9. The claims of the parties which do not correspond  
to Count 2 are:

Grubbs: 40

Nolan: 43-44, 47-50, 63-65, 72, 79-88, 93-106  
and 110-111

Priority benefit as to Count 2

10. Consistent with discussion during a conference  
call (Paper 29, page 2, ¶ B(4)), the benefit accorded in  
DECLARATION (Paper 1, pages 3 and 4) is accorded as to Count 2.

11. As to Count 2, Grubbs is accorded benefit for the  
purpose of priority of:

Provisional application 60/142,853,  
filed 07 July 1999

12. As to Count 2, Nolan is accorded benefit for the  
purpose of priority of:

Provisional application 60/115,358,  
filed 08 January 1999

Nolan request to amend its drawing

13. Nolan has filed an amendment to correct Fig. 4 of its drawings.

14. The amendment to correct the Fig. 4 of the drawing is found appropriate.

15. Entry of the amendment to correct Fig. 4 of the Nolan drawings is authorized.

/ss/Fred E. McKelvey  
FRED E. McKELVEY,  
Senior Administrative Patent Judge<sup>1</sup>

17 January 2006  
Alexandria, VA

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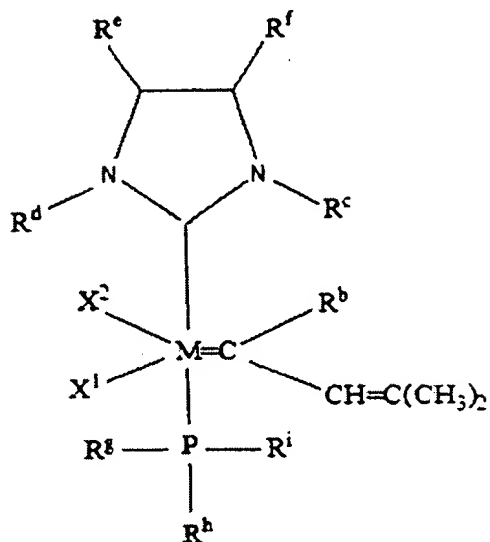
<sup>1</sup> As part of board efforts under the government Paperwork Elimination Act, signatures on papers originating from the board have been phased out in favor of a completely electronic record. Consequently, in this case papers originating at the board will not have signatures. The signature requirements for the parties have not changed. See, e.g., 37 CFR § 10.18.

## Appendix 1

### Count 2

A composition of matter having the formula:

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where:

$M$  is Ru or Os;

$X^1$  and  $X^2$  are each independently an anionic ligand;

$P$  is phosphorus

$R^g$ ,  $R^h$  and  $R^i$  are each independently

(1) a  $C_{1-10}$  alkyl group,

(2) a  $C_{3-10}$  cycloalkyl group or

(3) a  $C_{5-20}$  aryl group;

$R^b$ ,  $R^c$ ,  $R^d$ ,  $R^e$  and  $R^f$  are each independently

- (1) hydrogen,
- (2) a C<sub>1-20</sub> alkyl group,
- (3) a C<sub>2-20</sub> alkenyl group,
- (4) a C<sub>2-20</sub> alkynyl group,
- (5) an aryl group,
- (6) a C<sub>1-20</sub> carboxylate group,
- (7) a C<sub>1-20</sub> alkoxy group,
- (8) a C<sub>2-20</sub> alkenyloxy group,
- (9) a C<sub>2-20</sub> alkynyloxy group,
- (10) an aryloxy group,
- (11) a C<sub>2-20</sub> alkoxycarbonyl group,
- (12) a C<sub>1-20</sub> alkylthiol group,
- (13) a C<sub>1-20</sub> alkylsulfonyl group or
- (14) a C<sub>1-20</sub> alkylsulfinyl group,

where each of R<sup>b</sup>, R<sup>c</sup>, R<sup>d</sup>, R<sup>e</sup> and R<sup>f</sup> is optionally substituted with

- (a) halogen,
- (b) a C<sub>1-10</sub> alkyl group,
- (c) a C<sub>1-10</sub> alkoxy group,
- (d) an aryl group,
- (e) a hydroxyl group,
- (f) a thiol group,
- (g) a thioether group,
- (h) a ketone group,
- (i) an aldehyde group,
- (j) an ester group,

- (k) an ether group,
- (l) an amino group,
- (m) an amido group,
- (n) an imino group,
- (o) a nitro group,
- (p) a carboxylic acid group,
- (q) a disulfide group,
- (r) a carbonate group,
- (s) an isocyanate group,
- (t) a carbodiimide group,
- (u) a carboalkoxy group or
- (v) a carbamate group.

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cc (via electronic mail):

Attorney for Grubbs  
(real party in interest  
California Institute of Technology):

Lisa A. Haile, Esq.  
Antony M. Novom, Esq.  
Email: lisa.haile@dlapiper.com  
Email: antony.novom@dlapiper.com

Attorney for Nolan  
(real party in interest  
University of New Orleans Foundation):

R. Andrew Patty II, Esq.  
Mary H. Drabnis, Esq.  
Email: rap@patentcounsel.com  
Email: mhd@patentcounsel.com